

1 DEL HARDY, ESQ. (SBN # 1172)
HARDY LAW GROUP
2 96 & 98 Winter Street
Reno, Nevada 89503
3 Tel: 775-786-5800
Fax: 775-329-8282
4 Attorney for Creditors
Tim Burrus and Joann Ortiz-Burrus
5

6 **UNITED STATES BANKRUPTCY COURT**
7 **DISTRICT OF NEVADA**
8

9 In Re:
10 USA COMMERCIAL MORTGAGE COMPANY,
11 USA CAPITAL REALTY ADVISORS, LLC,
12 USA CAPITAL DIVERSIFIED TRUST DEED
FUND, LLC
13 USA CAPITAL FIRTS TRUST DEED FUND,
14 LLC,
15 USA SECURITIES, LLC,
16 Debtors.

Case No. BK-S-O6-10725-LBR
Case No. BK-S-O6-10726-LBR
Case No. BK-S-O6-10727-LBR
Case No. BK-S-O6-10728-LBR
Case No. BK-S-O6-10729-LBR

Chapter 11

Jointly Administered Under Case
No. BK-S-06-10725 LBR

RESPONSE TO FIRST OMNIBUS
OBJECTION OF THE USACM
LIQUIDATING TRUST TO
PROOFS OF CLAIM FOR LACK
OF DOCUMENTATION WITH
CERTIFICATE OF SERVICE

17 Affects:

18 USA COMMERCIAL MORTGAGE COMPANY
19 _____/

Hearing Date: December 20, 2007
Hearing Time: 9:30 a.m.

20
21 COMES NOW, Creditors TIMOTHY BURRUS and JOANN ORTIZ-BURRUS
22 (hereinafter interchangeably "Creditor" and "BURRUS"), by and through their attorneys,
23 HARDY LAW GROUP and DEL HARDY, ESQ., and pursuant to Local Rule 3007(b) hereby
24 respond to the FIRST OMNIBUS OBJECTION OF THE USACM LIQUIDATING TRUST TO
25 PROOFS OF CLAIM FOR LACK OF DOCUMENTATION WITH CERTIFICATE OF
26 SERVICE as follows:
27
28

1 1. BURRUS filed a Proof of Claim No. 10725-00027 against the above bankruptcy
2 estate on June 14, 2006, in the amount of Fifty Thousand Dollars (\$50,000.00);

3 2. BURRUS believes that written documentation in support of the proof of claim has
4 already been provided to the objecting party and was already attached to the claim.

5 3. Any and all documentation in support of the proof of claim has already been
6 provided and additional documentation will be provided at any evidentiary hearing or trial on the
7 matter. The cover sheets to the Deed of Trust, Promissory Note, Loan Agreement and letter are
8 attached hereto as Exhibit A, which full documents will be provided at hearing;

9 4. Some of the confusion here may be because of the fact that this Claimant had
10 multiple loans with Debtor and multiple claims were filed.

11 Accordingly, the claim of this Creditor should not be denied.

12 DATED this 11th day of December, 2007.

13 HARDY LAW GROUP

14 

15 DEL HARDY, ESQ.
16 Attorney for Plaintiffs
17 HARDY LAW GROUP
18 96 & 98 Winter Street
19 Reno, Nevada 89503
20 Tel: 775-786-5800
21 Fax: 775-329-8282
22 Attorney for Plaintiffs
23
24
25
26
27
28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of HARDY & ASSOCIATES, 96 & 98 Winter Street, Reno, Nevada 89503, and that on this date I served the foregoing document(s) on all parties to this action by:

_____ placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, at Reno, Nevada, postage paid, following ordinary business practices.

_____ personal delivery

☒ Electronically

☒ Facsimile (FAX)

_____ Federal Express or other overnight delivery

_____ Messenger Service

_____ Certified Mail with Return Receipt Requested.

addressed as follows:

Susan M. Freeman, Esq.
Rob Charles, Esq.
John Hinderaker
LEWIS & ROCA, LLP
3993 Howard Hughes Pkwy., Ste. 600
Las Vegas, Nevada 89169
Fax 702-949-8320

DATED this 11 day of December, 2007


An Employee of Hardy Law Group

USA Capital

First Trust Deed Investment

- Borrower:** 3685 San Fernando Road Partners, LP
The founders of the borrower, Mr. Devorris and Don Owen have been in the residential property development for over 25 years. Their main place of business is in Arcadia, Glendale, Calabasas, Los Angeles, Inglewood and Palmdale.
- Loan Amount:** \$7,650,000
- Rate:** 12.5% (net) interest paid monthly
- Loan to Value:** Approximately 66% based on sales of comparably situated land in the market, an appraisal is in process.
- Term:** 12 months
- Collateral:** First Trust Deed on approximately 1.58 acres of infill space for a condominium development, referred to as The Algemac, located in Glendale, California.
- The Project:** The Algemac is a transit-oriented development consisting of one four-story, 70-unit residential condo and 7,500 square foot retail development with one level of subterranean parking on a site of approximately 1.58 acres. The property is located in the San Fernando Road Corridor Redevelopment Area, a city initiative focused on stimulating residential and mixed-use development.
- The Glendale Central Transit Center train platform is located 3 blocks away from the site, and the site is conveniently located one half of mile from a new major retail power center with Costco, Best Buy, and Starbucks. In addition, within one mile of the Glendale Galleria with I-5 and Highway 2 less than 1 mile from the site.

USA Capital

(775) 851-8180

Licensed by the State of Nevada Division of Mortgage Lending
USA Commercial Mortgage Company 4484 S. Pecos Rd, Las Vegas NV 89121
License #MB 333 7/11/2005

Oliver Puhr

Cell (775) 544-8715

Email: opuhr@usacapitalcorp.com

Money invested through a mortgage broker is not guaranteed to earn any interest or return and is not insured. Before investing investors must be provided applicable disclosure.



4484 S. Pecos Rd.
Las Vegas NV 89121

Statement Information

Page Count	1
Statement As Of	02/28/2006
Payment Method	Direct Deposit

Timothy F. Burrus
3880 W Hidden Valley Dr
Reno, NV 89502

Payment Summary

Account: Timothy F. Burrus & Joann Ortiz-Burrus, husband & wife, as joint tenants with right of survivorship			
Total Investments	Total Principal	Total Interest Paid	Total Amount Paid
4	\$ 35,559.60	\$ 1,974.26 <i>OK</i>	\$ 37,533.86

Transaction Detail

Transaction Type	From Date	To Date	Beginning Balance	Ending Balance	Amount Paid
Investment: 3685 San Fernando			Original Investment: \$ 50,000.00	IR: 12.50%	YTD Interest: \$ 1,562.49
Interest Payment	02/01/2006	02/28/2006	\$ 50,000.00	\$ 50,000.00	\$ 486.11
Totals:			\$ 50,000.00	\$ 50,000.00	\$ 486.11
Investment: Copper Sage			Original Investment: \$ 100,000.00	IR: 12.00%	YTD Interest: \$ 2,988.14
Interest Payment	02/01/2006	02/27/2006	\$ 100,000.00	\$ 64,440.40	\$ 900.00
Interest Payment	02/28/2006	02/28/2006	\$ 64,440.40	\$ 64,440.40	\$ 21.48
Principal Paydown	02/28/2006	02/28/2006	\$ 100,000.00	\$ 64,440.40	\$ 35,559.60
Totals:			\$ 100,000.00	\$ 64,440.40	\$ 36,481.08
Investment: Elizabeth May Real			Original Investment: \$ 50,000.00	IR: 12.00%	YTD Interest: \$ 100.00
Interest Payment	02/23/2006	02/28/2006	\$ 50,000.00	\$ 50,000.00	\$ 100.00
Totals:			\$ 0.00	\$ 50,000.00	\$ 100.00
Investment: Shamrock Tower. LP			Original Investment: \$ 50,000.00	IR: 12.00%	YTD Interest: \$ 1,500.01
Interest Payment	02/01/2006	02/28/2006	\$ 50,000.00	\$ 50,000.00	\$ 466.67
Totals:			\$ 50,000.00	\$ 50,000.00	\$ 466.67

Full Account Summary

Account: Timothy F. Burrus & Joann Ortiz-Burrus, husband & wife, as joint tenants with right of survivorship		
Total Originally Invested	Total Remaining Invested	Total YTD Interest
\$ 250,000.00	\$ 214,440.40 OK	\$ 7,167.31 OK

For a detailed breakdown of your statement or additional account information, please visit <http://www.tdinvestments.com>



USA Commercial Mortgage Company
 4484 S. Pecos Road
 Las Vegas, NV 89121
 (702) 734-2400
 NV MBL #333

FIRST TRUST DEED INVESTMENT

BORROWER Elizabeth May Real Estate, LLC.

Background Anh Nguyen is the founder and managing member of the borrower. Nguyen has been in the real estate field for 10 years. He was the acquisition officer for a public homebuilder and for PetsMart. In both roles he was responsible for land acquisition and entitlement.

Equity The borrowers have \$3 million in cash toward the purchase of the property and the entitlement and pre-development process.

Guarantees Scott Clay and Anh Nguyen with a combined net worth of \$9 million as of December 31, 2005.

LOAN AMOUNT \$11.25 million

INTEREST RATE: 12.0% (net). Interest is paid monthly for the term of the loan. An interest reserve for the term of the loan is included in the loan.

LOAN-TO-VALUE Approximately 42% based on an appraisal from CB Richard Ellis dated December 29, 2005.

TERM 12 months, with one optional extension of six months, provided the loan is performing and no default has occurred, and subject to approval of USA Capital.

COLLATERAL First Deed of Trust on 30.3 acres of undeveloped land planned for residential and commercial development located on the southeast corner of Chandler Boulevard and 50th Street in Phoenix, Arizona.

PROJECT The project is planned as a mixed use of Class "A" office campus, retail and residential urban village on about 35 acres of property located along the west side of the I-10 on-ramp at Chandler Boulevard in Phoenix. Situated in a growing residential area know as Ahwatukee-Foothills, this area is the gateway to the city of Phoenix. The residential component will be mid-rise condominiums up to a height of eight stories.

USE OF PROCEEDS Our loan will be used to refinance the existing debt and provide certain predevelopment money.

MARKET AREA The outlook over the next two to three years is considered to be very favorable for the Phoenix area housing market. Population growth, especially in-migration, is expected to remain favorable and job creation is again emerging as a growth engine. Considering the amount and type of new downtown housing in development, the demand for these types of units is supported. As for retail construction, metropolitan Phoenix is one of the most active markets in the country, driven by demand for space by new retailers and expansion of existing tenants.

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